



General Assembly

January Session, 2009

Raised Bill No. 6418

LCO No. 3235

03235_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

***AN ACT CONCERNING TRANSFER OR DISCHARGE OF
RESIDENTIAL CARE HOME PATIENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-535a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) As used in this section, a "facility" means a residential care home,
4 as defined in section 19a-490.

5 (b) A facility shall not transfer or discharge a resident from the
6 facility unless (1) the transfer or discharge is necessary to meet the
7 resident's welfare and the resident's welfare cannot be met in the
8 facility, (2) the transfer or discharge is appropriate because the
9 resident's health has improved sufficiently so the resident no longer
10 needs the services provided by the facility, (3) the health or safety of
11 individuals in the facility is endangered, (4) the resident has failed,
12 after reasonable and appropriate notice, to pay for a stay or a
13 requested service, at the facility, or (5) the facility ceases to operate. In
14 the case of an involuntary transfer or discharge the resident, the
15 resident's advocate, if the resident has chosen an advocate, and, if

16 known, his legally liable relative, guardian or conservator shall be
 17 given a thirty-day written notification which includes the reason for
 18 the transfer or discharge and notice of the right of the resident to
 19 appeal a transfer or discharge by the facility pursuant to subsection (d)
 20 of this section. An advocate from the Office of Protection and
 21 Advocacy for Persons with Disabilities, who may or may not also be an
 22 attorney, may initiate the appeal on behalf of the resident and may
 23 represent the resident at any proceeding regarding the resident's
 24 involuntary transfer or discharge. No resident shall be involuntarily
 25 transferred or discharged from a facility if such transfer or discharge
 26 presents imminent danger of death.

27 (c) The facility shall be responsible for assisting the resident in
 28 finding appropriate placement. A discharge plan, prepared by the
 29 facility, which indicates the resident's individual needs shall
 30 accompany the patient.

31 (d) (1) For transfers or discharges effected on or after October 1,
 32 1989, a resident or his legally liable relative, guardian or conservator
 33 who has been notified by a facility, pursuant to subsection (b) of this
 34 section, that he will be transferred or discharged from the facility may
 35 appeal such transfer or discharge to the Commissioner of Public
 36 Health by filing a request for a hearing with the commissioner [within
 37 ten days of] not later than fifteen days, excluding Saturdays, Sundays
 38 and state holidays, after receipt of such notice. Upon receipt of any
 39 such request, the commissioner or his designee shall hold a hearing to
 40 determine whether the transfer or discharge is being effected in
 41 accordance with this section. Such a hearing shall be held [within
 42 seven business days of] not later than seven days, excluding Saturdays,
 43 Sundays and state holidays, after receipt of such request and a
 44 determination made by the commissioner or his designee [within] not
 45 later than twenty days [of] after the termination of the hearing. The
 46 hearing shall be conducted in accordance with chapter 54.

47 (2) In an emergency the facility may request that the commissioner

48 make a determination as to the need for an immediate transfer or
 49 discharge of a resident. Before making such a determination, the
 50 commissioner shall notify the resident and, if known, his legally liable
 51 relative, guardian or conservator. The commissioner shall issue such a
 52 determination no later than seven days after receipt of the request for
 53 such determination. If, as a result of such a request, the commissioner
 54 or his designee determines that a failure to effect an immediate transfer
 55 or discharge would endanger the health, safety or welfare of the
 56 resident or other residents, the commissioner or his designee shall
 57 order the immediate transfer or discharge of the resident from the
 58 facility. A hearing shall be held in accordance with the requirements of
 59 subdivision (1) of this subsection [within seven business days of] not
 60 later than seven days, excluding Saturdays, Sundays and state
 61 holidays, after the issuance of any determination issued pursuant to
 62 this subdivision.

63 (3) Any involuntary transfer or discharge shall be stayed pending a
 64 determination by the commissioner or his designee. Notwithstanding
 65 any provision of the general statutes, the determination of the
 66 commissioner or his designee after a hearing shall be final and binding
 67 upon all parties and not subject to any further appeal.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	19a-535a

Statement of Purpose:

To allow nonattorney advocates to represent individuals at hearings to appeal a transfer or discharge from a residential care home, to provide that business days and not calendar days are used to determine the deadline for each action, and to extend the period during which a person may appeal a transfer or discharge to fifteen business days.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]